

UNITED STATES DISTRICT COURT

APPENDIX F

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 1095 Rydal Road, Rydal Executive Plaza, Rydal, PA 19046

Address of Defendant: 15 Mountain View Road, Warren, New Jersey, 07059

Place of Accident, Incident or Transaction: Rydal, Pennsylvania
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 71(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

- 1 ☐ Indemnity Contract, Marine Contract, and All Other Contracts
- 2 ☐ FELA
- 3 ☐ Jones Act-Personal Injury
- 4 ☐ Antitrust
- 5 ☐ Patent
- 6 ☐ Labor-Management Relations
- 7 ☐ Civil Rights
- 8 ☐ Habeas Corpus
- 9 ☐ Securities Act(s) Cases
- 10 ☐ Social Security Review Cases
- 11 ☐ All other Federal Question Cases
(Please specify)

B. Diversity Jurisdiction Cases:

- 1 ☒ Insurance Contract and Other Contracts
- 2 ☐ Airplane Personal Injury
- 3 ☐ Assault, Defamation
- 4 ☐ Marine Personal Injury
- 5 ☐ Motor Vehicle Personal Injury
- 6 ☐ Other Personal Injury (Please specify)
- 7 ☐ Products Liability
- 8 ☐ Products Liability — Asbestos
- 9 ☐ All other Diversity Cases
(Please specify)

ARBITRATION CERTIFICATION

(Check appropriate Category)

I, Stewart R. Singer, counsel of record do hereby certify:

☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☒ Relief other than monetary damages is sought

DATE: 4/22/05

Stewart R. Singer
Attorney-at-Law

62006

Attorney ID #

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 4/22/05

Stewart R. Singer

62006

APPENDIX G

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

Righttime Econometrics, Inc., :
RTE Assest Management :
V :
Federal Insurance Company :

Civil Action

No: _____


DISCLOSURE STATEMENT FORM

Please check one box:

☒ The nongovernmental corporate party, Righttime Econometrics, in the above listed civil action does not have any parent corporation and publicly held corporation that owns 10% or more of its stock.

☐ The nongovernmental corporate party, _____, in the above listed civil action has the following parent corporation(s) and publicly held corporation(s) that owns 10% or more of its stock:

4/22/05
Date


Signature

Counsel for: Plaintiff, Righttime Econometrics, Inc.

Federal Rule of Civil Procedure 7.1 Disclosure Statement

(a) WHO MUST FILE: NONGOVERNMENTAL CORPORATE PARTY A nongovernmental corporate party to an action or proceeding in a district court must file two copies of a statement that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock or states that there is no such corporation.

(b) TIME FOR FILING; SUPPLEMENTAL FILING. A party must:

- (1) file the Rule 7.1(a) statement with its first appearance, pleading, petition, motion, response, or other request addressed to the court, and
- (2) promptly file a supplemental statement upon any change in the information that the statement requires.

APPENDIX G

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

Righttime Econometrics, Inc., :
RTE Assest Management :

V. :

Federal Insurance Company :

Civil Action

No: _____

DISCLOSURE STATEMENT FORM

Please check one box:




The nongovernmental corporate party, Righttime Econometrics, in the above listed civil action does not have any parent corporation and publicly held corporation that owns 10% or more of its stock.



The nongovernmental corporate party, _____, in the above listed civil action has the following parent corporation(s) and publicly held corporation(s) that owns 10% or more of its stock:

4/22/05
Date


Signature

Counsel for: Plaintiff, Righttime Econometrics, Inc.

Federal Rule of Civil Procedure 7.1 Disclosure Statement

(a) WHO MUST FILE: NONGOVERNMENTAL CORPORATE PARTY. A nongovernmental corporate party to an action or proceeding in a district court must file two copies of a statement that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock or states that there is no such corporation.

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JS 44 (Rev 11/04)

CIVIL COVER SHEET

APPENDIX H

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM)

I. (a) PLAINTIFFS

Righttime Econometrics, Inc.

DEFENDANTS

Federal Insurance Company

(b) County of Residence of First Listed Plaintiff Montgomery
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant New Jersey
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES USE THE LOCATION OF THE LAND INVOLVED

Salmon, Ricchezza, Singer & Turchi

(c) Attorney's (Firm Name, Address, and Telephone Number)

1700 Market St., Suite 3110, Phila., PA
19103; (215) 606-6600

Attorneys (If Known)

Not Known

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | PIF | DEF | PIF | DEF |
|---|--|---|--|
| Citizen of This State | <input checked="" type="checkbox"/> 1 <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input checked="" type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act (Excl. Veterans) <input type="checkbox"/> 152 Recovery of Defaulted Student Loans <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations & Disclosure Act <input type="checkbox"/> 730 Labor/Mgmt Reporting <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat. TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Declaratory Judgment Action pursuant to 28 USC sec. 2201, 2203

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

Declaratory Relief

CHECK YES only if demanded in complaint:

JURY DEMAND:

☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY None

(See instructions):

JUDGE

DOCKET NUMBER

DATE

4/22/05

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.C.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

APPENDIX I

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

Righttime Econometrics, Inc.,	:	CIVIL ACTION
RTE Asset Management	:	
v.	:	
	:	
Federal Insurance Company	:	NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. §2241 through §2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (x)

<u>4/22/05</u> Date	 Attorney-at-law	Plaintiff Attorney for
<u>(215) 606-6600</u> Telephone	<u>(215) 606-6601</u> FAX Number	<u>ssinger@srstlaw.com</u> E-Mail Address

APPENDIX N

SUMMONS IN A CIVIL ACTION

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Righttime Econometrics, Inc.,
RTE Asset Management

v.

Federal Insurance Company

CIVIL ACTION NO

TO: (NAME AND ADDRESS OF
DEFENDANT)
Federal Insurance Company
15 Mountain View Road
Warren, NJ 07059

YOU ARE HEREBY SUMMONED and required to serve upon

Plaintiff's Attorney (Name and Address)

Stewart R. Singer, Esq.
Kellie A. Allen, Esq.
Salmon, Ricchezza, Singer & Turchi
1700 Market St., Suite 3110
Philadelphia, PA 19103

an answer to the complaint which is herewith served upon you, within days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

Michael E. Kunz, Clerk of Court

Date:

(By) Deputy Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

RIGHTIME ECONOMETRICS, INC.,	:	CIVIL ACTION
RTE ASSET MANAGEMENT	:	
1095 RYDAL ROAD	:	
RYDAL EXECUTIVE PLAZA	:	
RYDAL, PA 19046	:	JURY TRIAL DEMANDED
	:	
	:	
v.	:	
	:	
FEDERAL INSURANCE COMPANY	:	
15 MOUNTAIN VIEW ROAD	:	CIVIL ACTION NO.
WARREN, NEW JERSEY 07059	:	
	:	

COMPLAINT – ACTION FOR DECLARATORY JUDGMENT

Plaintiffs, Rightime Econometrics, Inc., d/b/a RTE Asset Management (hereinafter referred to collectively as "RIE"), by and through their counsel, Salmon, Ricchezza, Singer and Turchi LLP, hereby seek a determination of insurance coverage by this Court, and, in support thereof, aver as follows:

THE PARTIES

1. Plaintiff, RTE, is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania with a principal place of business located at 1095 Rydal Road, Rydal Executive Plaza, Rydal, Pennsylvania, PA 19046.

2. On information and belief, Defendant, Federal Insurance Company ("Federal") is a corporation organized and existing under the laws of the State of Indiana, with a principal place of business located at 15 Mountain View Road, Warren, New Jersey 07059.

JURISDICTION

3. Jurisdiction of this Court is based upon diversity of citizenship of the parties, pursuant to 28 U.S.C. §1332. The amount in controversy, exclusive of interest and costs, exceeds the sum of \$75,000.00.

4. This action is filed under and pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§2201 and 2202. An actual controversy of a justiciable nature exists between the parties, who are citizens of different states, concerning the rights and obligations under an insurance policy issued by Federal to RTE.

5. All parties who have or claim any interest in the matter in controversy or who would be affected by any declaration made by this Court have been made parties to these proceedings.

THE UNDERLYING ACTION

6. RTE has been named as a defendant in the class action, In Re: Alger, Columbia, Janus, MFS, One Group, Pimco and Putnam, United States District Court for the District of Maryland, Baltimore Division, C.A. Nos. 04-MD-15863 and 04cv00560 ("the Putnam Action").

7. The Consolidated Amended Complaint in the Putnam Action alleges that Putnam Investment Trust and related corporate entities allowed a select group of favored investors to engage in short-term trading or "market timing" of Putnam funds that substantially diminished the returns of long-term buy and hold investors (A true and correct copy of the Consolidated Amended Complaint in the Putnam Action is attached hereto as Exhibit "A").

8. The Consolidated Amended Complaint in the Putnam Action states that the claims "are asserted on behalf of a Class consisting of all persons who purchased and/or held shares in any mutual fund in the Putnam Family adversely affected by market timing which funds and/or their

registrants/issuers were advised by Putnam Investment Management, LLC (the “Funds”) during the period October 30, 1998 to October 21, 2003, inclusive (the “Class Period”) ...” (¶¶ 1,56).

9. As described in the Consolidated Amended Complaint, the plaintiff class excludes only the defendants in the Putnam Action, members of their immediate families and their legal representatives, “parents, affiliates, heirs, successors or assigns, and any entity in which any defendant has or had a controlling interest, and any other person who engaged in the unlawful conduct described herein (the ‘Excluded Persons’)... any officers, directors or trustees of the Excluded Persons, and all trustees and portfolio managers of the Funds” (Id.).

10. The Consolidated Amended Complaint alleges that the plaintiff class purchased various Putnam Funds during the Class Period (¶¶23-30).

11. The Consolidated Amended Complaint alleges that during the Class Period, RTE had a “contractual arrangement” with Putnam that allowed RTE’s clients to time Putnam funds (¶¶47, 80).

12. The Consolidated Amended Complaint asserts various claims against RTE and the other defendants, alleging, inter alia, that the defendants engaged in a scheme to deceive the investing public, including the Plaintiff Class, aided and abetted in the breach of fiduciary duties to the Plaintiff Class, and “derived management fees and other benefits... from transactions connected with the Putnam family of funds” and “breached their fiduciary duties to the plaintiffs and members of the Class and breached contracts with plaintiffs and members of the Class...” (¶¶ 198, 200).

COUNT I **DECLARATORY JUDGMENT**

THE FEDERAL INSURANCE POLICY

13. Righttime Econometrics, Inc. d/b/a RTE Asset Management is designated as the “parent organization” under Federal Insurance Company Investment Adviser’s Policy no. 7043-0085 (“the

Federal Policy”)(A true and correct copy of the pertinent provisions of the Federal Policy is attached hereto as Exhibit “B”).

14. The Federal Policy provides various liability coverages, including Fiduciary Liability, Directors and Officers Liability and Investment Advisers Errors and Omissions Liability.

15. The Defense and Settlement clause of the Federal Policy provides that Federal “shall have the right and duty to defend any Claim covered by this Policy ... even if any of the allegations are groundless, false or fraudulent”.

Investment Advisers Errors and Omissions Liability Coverage

16. The Investment Advisers Errors and Omissions Liability coverage applies to:

all **Loss** on account of any **Investment Advisers Errors or Omissions Claim** first made against such **Insured** during the **Policy Period** ... for a **Wrongful Act** while performing **Investment Adviser Services**, including failure to perform **Investment Advisers Services**.

17. The Federal Policy defines “Investment Advisers Errors or Omissions Claim” to include “a civil proceeding commenced by the service of a complaint or similar pleading... brought by or on behalf of a customer of the **Insured** for a **Wrongful Act** or **Interrelated Wrongful Act** by such **Insured** solely while performing **Investment Adviser Services**, including any appeal therefrom”.

18. The Federal Policy defines “Wrongful Act” to mean “any error, misstatement, misleading statement, act, omission, neglect, or breach of duty committed, attempted or allegedly committed or attempted, before or during the **Policy Period** by any **Insured**”.

19. The Federal Policy defines “Interrelated Wrongful Acts” to mean “all causally connected **Wrongful Acts**”.

20. Federal has refused to defend or indemnify RTE for the claims asserted in the Putnam Action.

21. Federal has taken the position that the Investment Advisers Errors or Omissions Liability coverage does not apply to the Putnam Action because the action is not “brought by or on behalf of a customer of the Insured”, but is brought by or on behalf of shareholders in Putnam Funds who are alleged to have been adversely affected by market timers.

22. The claims asserted in Consolidated Amended Complaint are brought on behalf of all Class members who held or purchased shares of Putnam Funds during the Class Period (¶¶138, 148-149).

23. RTE has approximately one thousand clients who purchased and/or held shares in various mutual funds in the Putnam Family during the Class Period.

24. The Plaintiff Class in the Putnam Action includes those clients of RTE who did not engage in market timing, but purchased or held shares of Putnam Funds that were adversely affected by the alleged market timing.

25. The Putnam Action is a civil proceeding brought against RTE by or on behalf of those customers of RTE who are members of the Plaintiff Class.

26. The Putnam Action asserts a claim against RTE for an alleged “Wrongful Act or Interrelated Wrongful Act” by RTE “while performing Investment Adviser Services” within the meaning of the Federal Policy.

27. The Putnam Action asserts claims against RTE that are within the scope of the Investment Advisers Errors and Omissions Liability coverage of the Federal Policy.

28. Federal has an obligation to defend and indemnify RTE for the claims asserted in the Putnam Action under the Investment Advisers Errors and Omissions Liability coverage

Directors & Officers Liability Coverage

29. Under the Directors and Officers (D&O) Liability coverage, Federal agreed to:

Pay on behalf of an **Insured** all **Loss** on account of any **D&O Claim** first made against an **Insured Person** during the **Policy Period** ... for a **Wrongful Act**.

30. For several years prior to receiving notice of the Putnam Action, Federal represented to RTE that the Directors & Officers Liability coverage provided coverage for claims against the corporate entity, RTE, as well as claims against its officers and directors (i.e. "entity coverage").

31. RTE purchased the Federal Policy in reliance upon Federal's representation that the Directors and Officers Liability coverage would provide entity coverage for claims against RTE.

32. Based on the representations of Federal, RTE reasonably expected that the Directors and Officers coverage of the Federal policy would provide coverage in the event of claims against RTE, as well as claims against its directors and officers.

33. Upon receipt of notice of the Putnam Action, Federal has taken the position that the Federal Policy does not provide entity coverage to RTE for the claims asserted in the Putnam Action and has refused to defend and/or indemnify RTE.

34. Federal is estopped from denying coverage to RTE because RTE relied to its detriment on Federal's representations that the Directors and Officers Liability coverage would provide entity coverage for claims against RTE.

35. RTE seeks a declaration from this Court that Federal has an obligation to provide defense and indemnification to RTE for the Putnam Action.

COUNT II
BAD FAITH

36. RTE incorporates by reference paragraphs one through thirty five of this Complaint as if fully set forth herein.

37. Federal is obligated to defend and indemnify RTE for the claims asserted in the Putnam Action.

38. Federal has refused to defend or indemnify RTE for the claims asserted in the Putnam Action.

39. There is no reasonable basis for Federal's refusal to defend and indemnify RTE for the claims asserted in the Putnam Action.

40. Federal knows and/or has recklessly disregarded the fact that it lacks a reasonable basis for refusing to defend and/or indemnify RTE for the claims asserted in the Putnam Action.

41. Federal has acted in bad faith and continues to act in bad faith in refusing to defend and/or indemnify RTE for the claims asserted in the Putnam action.

42. Pursuant to 42 Pa.C.S. § 8371, RTE is entitled to recover damages, interest, court costs and attorney fees incurred in this action.

WHEREFORE, Plaintiffs, Righttime Econometrics, Inc. d/b/a RTE Asset Management respectfully request that this Honorable Court enter an Order:

- (1) Declaring that the Federal Policy provides coverage to RTE for the Putnam Action;
- (2) Declaring that the claims asserted in the Putnam Action fall within the scope of the Investment Advisers Errors or Omissions Liability coverage of the Federal Policy;
- (3) Declaring that the claims asserted in the Putnam Action fall within the scope of the Directors & Officers Liability coverage of the Federal Policy;
- (4) Declaring that Federal has an obligation to defend and indemnify RTE for the claims asserted in the Putnam Action;
- (5) Declaring that Federal must reimburse RTE for all attorneys fees, costs and expenses that RTE has incurred in the defense of the Putnam Action;

- (6) Declaring that Federal must reimburse RTE for all attorneys fees, costs and expenses that RTE has incurred in the prosecution of the instant action;
- (7) Granting such other relief as the Court deems appropriate.

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